

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \* \* \*

4 LEO CONO,

5 Plaintiff,

6 v.

7 AVALON BAY COMMUNITIES, INC., et  
8 al.,

9 Defendants.

Case No. 2:18-cv-0482-APG-VCF

**DISTRICT COURT'S RESPONSE TO  
NINTH CIRCUIT'S REFERRAL  
NOTICE**

(ECF No. 21)

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11 The Ninth Circuit Court of Appeals has referred to me the question whether Mr. Cono's  
12 "in forma pauperis status should continue for this appeal or whether the appeal is frivolous or  
13 taken in bad faith." ECF No. 21. I do not find this appeal to be taken in bad faith. 18 U.S.C.  
14 §1915(a)(3). However, the appeal appears to me to be frivolous. Whether that is a sufficient  
15 basis to revoke in forma pauperis status under the language of 18 U.S.C. §1915(a)(3), I leave to  
16 the Ninth Circuit to decide. *Cf. Hooker v. American Airlines*, 302 F.3d 1091 (9th Cir. 2002).

17 This response is directed to the Ninth Circuit pursuant to Federal Rule of Appellate  
18 Procedure 24(a)(3)(A). The clerk of court shall serve this response upon the parties and the  
19 Ninth Circuit.

20 Dated: October 17, 2018.

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22 ANDREW P. GORDON  
23 UNITED STATES DISTRICT JUDGE